

Appl. No. 09/587,574
Amdt. Dated September 15, 2003
Reply to Advisory Action of August 21, 2003

REMARKS/ARGUMENTS

Claim 47 is pending in the application. Claim 34 is canceled without prejudice.

As an initial matter, Applicant wishes to thank the Examiner for the September 10, 2003 discussion and helpful remarks.

Claim Rejections under 35 USC § 112, First Paragraph:

The Examiner previously rejected claims 33 and 34 as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. However, the Examiner did conclude that applicants adequately described SEQ ID NO: 1.

In response, Applicant, in an Amendment filed July 30, 2003, canceled claim 33 and amended claim 34. In the Advisory Action, the Examiner stated that the amendments to claim 34 failed to place the application in condition for allowance.

Claim 34 is canceled, and the rejection thereof is now moot.

New claim 47 is directed to a polypeptide comprising the amino acid sequence of SEQ ID NO: 1. As the Examiner has concluded that applicants adequately described SEQ ID NO: 1, the written description requirement of 35 USC § 112, first paragraph is fulfilled with respect to claim 47, and allowance thereof is respectfully requested.

Claim Rejections under 35 USC § 112, Second Paragraph:

Claims 33 and 34 were previously rejected under 35 USC § 112, second paragraph, for being indefinite. The Examiner specifically objected to the language "the same biological activity as conductin" recited in claim 33, stating that the metes and bounds of this limitation were unclear.

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In response, Applicant, in an Amendment filed July 30, 2003, canceled claim 33 and amended claim 34. In the Advisory Action, the Examiner stated that the amendments to claim 34 failed to place the application in condition for allowance.

Claims 33 and 34 are canceled, and this rejection is now moot.

New claim 47 does not recite the language objected to by the Examiner. Applicant submits that claim 47 is definite, and respectfully requests the allowance thereof.

Claim Rejections under 35 USC § 102:

Examiner has rejected claim 33 under 35 USC § 102(b) as being anticipated by Zeng et al. (July 11, 1997, *Cell*, vol. 90, pages 181-192) as evidenced by Kishida et al. (May 1998, *J. Biol. Chem.* vol. 273, pages 10823-10826).

In response, Applicant, in an Amendment filed July 30, 2003, canceled claim 33 and amended claim 34. In the Advisory Action, the Examiner stated that the amendments to claim 34 failed to place the application in condition for allowance.

In light of the cancellation of claim 34, this rejection is now moot and withdrawal thereof is respectfully requested.

Allowable Subject Matter:

Applicant thanks the Examiner for indicating allowable subject matter in the Office Action dated January 30, 2003. New claim 47 has been submitted, directed to that subject matter, *i.e.*, a polypeptide comprising the amino acid sequence of SEQ ID NO: 1. Allowance of claim 47 is respectfully requested.

Conclusion:

Based on the foregoing amendments and remarks, favorable consideration and allowance of claim 47 is respectfully requested.


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Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue.

Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment, to Goodwin Procter LLP Deposit Account No. 06-0923.

Respectfully submitted for Applicant,



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